

HAMRICK & EVANS, LLP

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Attorneys for Defendant
 MONTEREY FINANCIAL SERVICES, LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

NALANI ANDERSON)	Case No.:
)	
Plaintiff,)	Alameda Superior Court
)	Case No.: RG18896040
vs.)	
)	NOTICE OF REMOVAL OF
MONTEREY FINANCIAL)	STATE COURT ACTION
SERVICES, LLC)	
DOES 1-10, inclusive)	
)	
Defendants.)	
)	

Defendant Monterey Financial Services, LLC (“Defendant”), by filing this Notice of Removal and related papers, hereby removes the above-entitled action from the Superior Court of Alameda County, California, to the United States District Court for the Northern District of California, Oakland Division, pursuant to 28 U.S.C. §§ 1331, 1441 and 1446.

In support of the Notice of Removal, Defendant asserts the following:

1. On or about March 14, 2018, Defendant was served with a Complaint related to an action filed in the Superior Court of Alameda County, California.
2. The above-referenced Complaint was filed with the Superior Court of

1 Alameda County on March 8, 2018.

2 3. In the Complaint, Plaintiff alleges that she is a resident of Alameda
3 County, California.

4 4. Defendant is a limited liability company with a principal place of
5 business located in Oceanside, California.

6 5. Defendant desires to exercise its right to remove the state court action
7 under 28 U.S.C. § 1441(a), which provides in pertinent part:

8 Except as otherwise expressly provided by Act of
9 Congress, any civil action brought in a State court of
10 which the district courts of the United States have original
11 jurisdiction, may be removed by the defendant or the
12 defendants, to the district court of the United States for the
district and division embracing the place where such
action is pending.

13 6. Plaintiff's Complaint alleges that Defendant violated the Telephone
14 Consumer Protection Act, 47 U.S.C. § 227, *et seq.* ("TCPA"), and the Rosenthal
15 Fair Debt Collection Practices Act, 1788, *et seq.*

16 7. Given the allegations in the Complaint that Defendant violated the
17 TCPA, this Court, pursuant to 28 U.S.C. § 1331, has subject matter jurisdiction over
18 the allegations in the Complaint.

19 8. Thus, the state court action may be removed to this Court by Defendant
20 in accordance with the provisions of 28 U.S.C. § 1441(a) because this is a civil
21 action pending within the jurisdiction of the United States District Court for the
22 Northern District of California, Oakland Division, and because the allegations made
23 by Plaintiff allege violations of the TCPA.

24 9. Notice of removal is being filed within 30 days after service of the
25 Complaint upon Defendant and is thus timely pursuant to 28 U.S.C. § 1446(b).

26 10. Pursuant to 28 U.S.C. § 1441(a), venue is proper because Alameda
27 County lies within the Northern District of California, Oakland Division.

28 11. Pursuant to 28 U.S.C. § 1446(a), a copy of the Complaint served upon

HAMRICK & EVANS, LLP

1 Defendant in the state court action is attached hereto as **Exhibit A**.

2 12. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is
3 contemporaneously being filed with the Superior Court of Alameda County and
4 served upon Plaintiff's counsel. By serving a copy of this Notice of Removal upon
5 Plaintiff's counsel, Defendant is giving Plaintiff proper notice of this removal.

6 13. Defendant reserves the right to amend or supplement this Notice of
7 Removal and further reserves the right to raise all defense and objections.

8 14. WHEREFORE, pursuant to 28 U.S.C. §§ 1331, 1441, and 1446,
9 Defendant removes this action in its entirety from the Superior Court of the State of
10 California, County of Alameda, to the United States District Court for the Northern
11 District of California, Oakland Division.

12 DATED: April 3, 2018

13 Respectfully submitted,

14 HAMRICK & EVANS LLP

15 By: /s Jeff Poole

16 A. Raymond Hamrick, III

17 Jeff Poole, Esq.

18 Attorneys for Defendant

19 Monterey Financial Services, LLC
20
21
22
23
24
25
26
27
28

EXHIBIT A

COPY

BY FAX

SUM-100

SUMMONS (CITACION JUDICIAL)

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

**MONTEREY FINANCIAL SERVICES LLC; and DOES 1 -10
inclusive,**

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

NALANI ANDERSON,

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**ENDORSED
FILED
ALAMEDA COUNTY**

MAR - 8 2018

**CLERK OF THE SUPERIOR COURT
By ERICA BAKER Deput**

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le de un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es): George E. McDonald Hall of Justice
2233 Shoreline Drive
Alameda, California 94501

CASE NUMBER:

(Número del caso)

1818892040

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Todd M. Friedman, 21550 Oxnard St., Suite 780 Woodland Hills, CA 91367, 877-206-4741

DATE:
(Fecha)

MAR - 8 2018

Chad Finka

Clerk, by
(Secretario)

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (Form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

(SEAL)

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☒ on behalf of (specify): **Monterey Financial Services LLC**

- under: ☐ CCP 416.10 (corporation) ☐ CCP 416.50 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☒ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):

4. ☐ by personal delivery on (date):

COPY

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Type, State Bar number, and address): Todd M. Friedman, Esq. SBN 216752 Law Offices of Todd M. Friedman 21550 Oxnard St., Suite 780 Woodland Hills, CA 91367 TELEPHONE NO.: 877-206-4741 FAX NO.: 866-633-0712 ATTORNEY FOR (Name): Plaintiff, NALANI ANDERSON		FOR COURT USE ONLY ENDORSED FILED ALAMEDA COUNTY MAR - 8 2018 CLERK OF THE SUPERIOR COURT By: ERICA HAWK
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Alameda STREET ADDRESS: 2233 Shoreline Drive MAILING ADDRESS: 2233 Shoreline Drive CITY AND ZIP CODE: Alameda 94501 BRANCH NAME: George E. McDonald Hall of Justice		
CASE NAME: NALANI ANDERSON v. MONTEREY FINANCIAL SERVICES, LLC		
CIVIL CASE COVER SHEET <input type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input checked="" type="checkbox"/> Limited (Amount demanded is \$25,000 or less) Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)		CASE NUMBER: EC18890040 JUDGE CEPT.

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other P/DP/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other P/DP/WD (23) Non-P/DP/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (18) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input checked="" type="checkbox"/> Other non-P/DP/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): 2
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: March 7, 2018
 Todd M. Friedman

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

Form Adopted for Mandatory Use
 Judicial Council of California
 CM-010 (Rev. July 1, 2007)

CIVIL CASE COVER SHEET

Cal. Rules of Court, rules 2.36, 3.220, 3.400-3.403, 3.740;
 Cal. Standards of Judicial Administration, std. 3.10
www.courtinfo.ca.gov

American LegalNet, Inc.
www.Forms4Law.com

BY FAX

CM-010

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)

Other PIPD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (not asbestos or toxic/environmental) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PIPD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PIPD/WD

Non-PIP/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (not civil harassment) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (not medical or legal)
Other Non-PIP/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (not unlawful detainer or wrongful eviction)
Contract/Warranty Breach—Seller
Plaintiff (not fraud or negligence)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (not provisionally complex) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (not eminent domain, landlord/tenant, or foreclosure)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (arising from provisionally complex case type listed above) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (non-domestic relations)
Sister State Judgment
Administrative Agency Award (not unpaid taxes)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (not specified above) (42)
Declaratory Relief Only
Injunctive Relief Only (non-harassment)
Mechanics Lien
Other Commercial Complaint Case (non-tort/non-complex)
Other Civil Complaint (non-tort/non-complex)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (not specified above) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

COPY

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2 **Adrian R. Bacon (280332)**
3 **Law Offices of Todd M. Friedman, P.C.**
4 **21550 Oxnard St., Suite 780**
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6 **Phone: 877-206-4741**
7 **Fax: 866-633-0228**
8 **tfriedman@toddflaw.com**
9 **abacon@toddflaw.com**
10 **Attorneys for Plaintiff**

**ENDORSED
FILED
ALAMEDA COUNTY**

MAY - 8 2018

**CLERK OF THE SUPERIOR COURT
By: ERICA BAKER, Deputy**

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF ALAMEDA**
13 **LIMITED JURISDICTION**

14 **NALANI ANDERSON,**

15 **Plaintiff,**

16 **vs.**

17 **MONTEREY FINANCIAL SERVICES**
18 **LLC; and DOES 1 – 10 inclusive,**

19 **Defendant.**

20) **Case No. EG18892040**
21)
22) **COMPLAINT**
23) **(Amount to exceed \$10,000 but not \$25,000)**
24)
25) 1. **Violation of Rosenthal Fair Debt**
26) **Collection Practices Act**
27) 2. **Violation of Telephone Consumer**
28) **Protection Act**
) **JURY DEMANDED**

BY FAX

1 **I. INTRODUCTION**

2 1. This is an action for damages brought by an individual consumer for Defendant's
3 violations of the Rosenthal Fair Debt Collection Practices Act, Cal. Civ. Code §1788. *et seq.*
4 (hereinafter "RFDCPA") which prohibits debt collectors from engaging in abusive, deceptive,
5 and unfair practices. Ancillary to the claims above, Plaintiff further alleges claims for
6 Defendant's violations of the Telephone Consumer Protection Act., 47 U.S.C. §227, *et seq.*
7 (hereinafter, "TCPA").

8 **II. PARTIES**

9 2. Plaintiff, NALANI ANDERSON ("Plaintiff"), is a natural person residing in
10 Alameda County in the state of California and is a "debtor" as defined by Cal. Civ. Code
11 §1788.2(h). Plaintiff is a "person" as defined by 47 U.S.C. § 153(39).

1 3. At all relevant times herein, Defendant, MONTEREY FINANCIAL SERVICES
2 LLC ("Defendant"), is a company engaged, by use of the mails and telephone, in the business of
3 collecting a debt from Plaintiff which qualifies as a "consumer debt," as defined by Cal. Civ.
4 Code §1788.2(f). Defendant regularly attempts to collect debts alleged to be due them, and
5 therefore is a "debt collector" as defined by the RFDCPA, Cal. Civ. Code §1788.2(c). Further,
6 Defendant uses an "automatic telephone dialing system" as defined by the TCPA, 47 U.S.C. §227
7 and is a "person" as defined by 47 U.S.C. § 153(39).

8 4. The above named Defendant, and its subsidiaries and agents, are collectively
9 referred to as "Defendants." The true names and capacities of the Defendants sued herein as
10 DOE DEFENDANTS 1 through 10, inclusive, are currently unknown to Plaintiff, who therefore
11 sues such Defendants by fictitious names. Each of the Defendants designated herein as a DOE
12 is legally responsible for the unlawful acts alleged herein. Plaintiff will seek leave of Court to
13 amend the Complaint to reflect the true names and capacities of the DOE Defendants when such
14 identities become known.

15 5. Plaintiff is informed and believes that at all relevant times, each and every
16 Defendant was acting as an agent and/or employee of each of the other Defendants and was acting
17 within the course and scope of said agency and/or employment with the full knowledge and
18 consent of each of the other Defendants. Plaintiff is informed and believes that each of the acts
19 and/or omissions complained of herein was made known to, and ratified by, each of the other
20 Defendants.

21 III. FACTUAL ALLEGATIONS

22 6. At various and multiple times prior to the filing of the instant complaint, including
23 within the one year preceding the filing of this complaint, Defendant contacted Plaintiff in an
24 attempt to collect an alleged outstanding debt.

25 7. Defendant made numerous calls to Plaintiff's phone number ending in -3546.
26 Defendant repeatedly called Plaintiff, with calls averaging several times per day, and from
27 numbers verified to be owned by Defendant. On at least one occasion, Plaintiff answered these
28 calls and informed Defendant to stop calling her. Despite this, Defendant continued to call
Plaintiff without her consent.

1 8. Defendant also used an "automatic telephone dialing system," as defined by 47
2 U.S.C. § 227(a)(1), to place its repeated collection calls to Plaintiffs seeking to collect the debt
3 allegedly owed.

4 9. Defendant's calls constituted calls that were not for emergency purposes as
5 defined by 47 U.S.C. § 227(b)(1)(A).

6 10. Defendant's calls were placed to telephone number assigned to a cellular
7 telephone service for which Plaintiffs incur a charge for incoming calls pursuant to 47 U.S.C.
8 §227(b)(1).

9 11. §1788.17 of the RFDCPA mandates that every debt collector collecting or
10 attempting to collect a consumer debt shall comply with the provisions of Sections 1692b to
11 1692j, inclusive, of, and shall be subject to the remedies in Section 1692k of, Title 15 of the
12 United States Code statutory regulations contained within the FDCPA, 15 U.S.C. §1692d, and
13 §1692d(5).

14 12. Defendant's conduct violated the RFDCPA in multiple ways, including but not
15 limited to:

- 16 a) Causing a telephone to ring repeatedly or continuously to annoy Plaintiff
17 (Cal. Civ. Code § 1788.11(d));
- 18 b) Communicating, by telephone or in person, with Plaintiff with such
19 frequency as to be unreasonable and to constitute an harassment to
20 Plaintiff under the circumstances (Cal. Civ. Code § 1788.11(e));
- 21 c) Causing Plaintiffs telephone to ring repeatedly or continuously with intent
22 to harass, annoy or abuse Plaintiff (15 U.S.C. § 1692d(5));
- 23 d) Communicating with Plaintiff at times or places which were known or
24 should have been known to be inconvenient for Plaintiff (15 U.S.C. §
25 1692c(a)(1)) ; and
- 26 e) Engaging in conduct the natural consequence of which is to harass,
27 oppress, or abuse Plaintiff (15 U.S.C. § 1692d)).

28 13. Defendant's conduct violated the TCPA by:

- a) using any automatic telephone dialing system or an artificial or pre-
recorded voice to any telephone number assigned to a paging service,
cellular telephone service, specialized mobile radio service, or other
radio common carrier service, or any service for which the called party
is charged for the call (47 USC §227(b)(A)(iii)).

1
2 14. As a result of the above violations of the RFDCPA and TCPA, Plaintiff suffered
3 and continues to suffer injury to Plaintiff's feelings, personal humiliation, embarrassment, mental
4 anguish and emotional distress, and Defendant is liable to Plaintiff for Plaintiff's actual damages,
5 statutory damages, and costs and attorney's fees.

6 **COUNT I: VIOLATION OF ROSENTHAL**
7 **FAIR DEBT COLLECTION PRACTICES ACT**

8 15. Plaintiff reincorporates by reference all of the preceding paragraphs.

9 16. To the extent that Defendant's actions, counted above, violated the RFDCPA,
10 those actions were done knowingly and willfully.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiff respectfully prays that judgment be entered against Defendant
13 for the following:

- 14 A. Actual damages;
15 B. Statutory damages for willful and negligent violations;
16 C. Costs and reasonable attorney's fees;
17 D. For such other and further relief as may be just and proper.

18 **COUNT II: VIOLATION OF TELEPHONE**
19 **CONSUMER PROTECTION ACT**

20 17. Plaintiff incorporates by reference all of the preceding paragraphs.

21 18. The foregoing acts and omissions of Defendant constitute numerous and multiple
22 negligent violations of the TCPA, including but not limited to each and every one of the above
23 cited provisions of 47 U.S.C. § 227 *et seq.*

24 19. As a result of Defendant's negligent violations of 47 U.S.C. § 227 *et seq.*, Plaintiff
25 is entitled an award of \$500.00 in statutory damages, for each and every violation, pursuant to
26 47 U.S.C. § 227(b)(3)(B).

27 20. The foregoing acts and omissions of Defendant constitute numerous and multiple
28 knowing and/or willful violations of the TCPA, including but not limited to each and every one
of the above cited provisions of 47 U.S.C. § 227 *et seq.*

21. As a result of Defendant's knowing and/or willful violations of 47 U.S.C. § 227

1 *et seq.*, Plaintiff is entitled an award of \$1,500.00 in statutory damages, for each and every
2 violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

3 22. Plaintiff is entitled to and seeks injunctive relief prohibiting such conduct in the
4 future.

5 **PRAYER FOR RELIEF**


6 WHEREFORE, Plaintiff respectfully prays that judgment be entered against the
7 Defendant for the following:

- 8 A. As a result of Defendant's negligent violations of 47 U.S.C. §227(b)(1),
9 Plaintiff is entitled to and request \$500 in statutory damages, for each
10 and every violation, pursuant to 47 U.S.C. 227(b)(3)(B);
11 B. As a result of Defendant's willful and/or knowing violations of 47 U.S.C.
12 §227(b)(1), Plaintiff is entitled to and requests treble damages, as
13 provided by statute, up to \$1,500, for each and every violation, pursuant
14 to 47 U.S.C. §227(b)(3)(B) and 47 U.S.C. §227(b)(3)(C); and
15 C. Any and all other relief that the Court deems just and proper.

16 **PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY**

17 23. Pursuant to her right under Article 1, Section 16 of the Constitution of the State
18 of California, Plaintiff demands a trial by jury on all issues so triable.

19 Respectfully submitted this 7th day of March, 2018.

20 By: 
21 Todd M. Friedman, Esq.
22 Law Offices of Todd M. Friedman, P.C.
23 Attorney for Plaintiff
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PROOF OF SERVICE**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

I certify and state that I am now and at all times herein mentioned was, a citizen of the United States, over the age of eighteen (18) years, a resident of the County of Los Angeles, and not a party to the within action or cause. My business address is Hamrick & Evans, LLP, 2600 West Olive Avenue, Suite 1020, Burbank, California 91505.

I hereby certify that I am employed in the office of a member of the bar of this court at whose direction the service was made.

I further certify that on April 3, 2018, I caused to be served the copies of the attached:

NOTICE OF REMOVAL OF STATE COURT ACTION

on the parties in said action as follows:

☒ **BY REGULAR MAIL:** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, for collection and mailing at my place of business following ordinary business practices. Said document(s) will be deposited with United States Post Office mail box at Burbank, California, addressed as follows:

SEE ATTACHED SERVICE LIST

☐ **BY OVERNIGHT DELIVERY:** I served such envelope or package to be delivered on the same day to an authorized courier or driver authorized by the overnight service carrier to receive documents, in an envelope or package designated by the overnight service carrier.

☒ **BY CM/ECF NOTICE OF ELECTRONIC FILING:** I electronically filed the document(s) with the Clerk of the Court by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system. Participants in the case who are not registered CM/ECF users will be serve by mail or by any other means permitted by the court rules.

☐ (State) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

☒ (Federal) I declare that I am employed in the office of a member of the Bar of this Court, at whose direction the service was made.

Executed on April 3, 2018, at Burbank, California.

/s/ Heather Martindale

Heather Martindale

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